

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7767

Petition of Vermont Transco LLC, and Vermont)
Electric Power Company, Inc., Windsor County)
Sheriff's Department, Cavendish Volunteer Fire)
Department, Inc., Plymouth Volunteer Fire)
Department, Inc., Ludlow Fire Department)
Benevolent Association, Inc., Ludlow Ambulance)
Department, Proctorsville Fire Department -)
Cavendish Fire District No. 1, and Vermont)
Railway, Inc., for authority, pursuant to 30 V.S.A.)
§ 248a, to install wireless communications)
facilities in Mount Holly, Vermont, as part of a)
statewide radio project)

Order entered:

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the application filed on August 1, 2011, by Vermont Transco LLC, and Vermont Electric Power Company, Inc. (collectively, "VELCO"), Windsor County Sheriff's Department, Cavendish Volunteer Fire Department, Inc., Plymouth Volunteer Fire Department, Inc., Ludlow Fire Department Benevolent Association, Inc., Ludlow Ambulance Department, Proctorsville Fire Department - Cavendish Fire District No. 1, and Vermont Railway, Inc., (together, the "Petitioners"), pursuant to 30 V.S.A. § 248a, and the Board's Amended Procedures Order ("Procedures Order"),¹ and grants the Petitioners a certificate of public good ("CPG") authorizing the upgrade of telecommunications facilities located in the Town of Mount Holly, Vermont (the "Project").

1. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 14, 2009.

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioners on August 1, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the upgrade of telecommunications facilities in the Town of Mount Holly, Vermont. Pursuant to the Procedures Order, comments regarding the petition are due within 21 days of filing with the Board.

On September 9, 2011, the Department of Public Service ("Department") filed a letter recommending that the Board issue a CPG for the Project without further evidence or hearings. The Department also recommends that the Board add a condition to the CPG requiring the Petitioner to file copies of engineering documents for the proposed tower and tower foundation prior to Project construction.²

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project is part of VELCO's Statewide Radio Project ("SRP") that involves the creation of a private mobile communications network consisting of multiple wireless communications facilities. The facilities will be located throughout the state for purposes associated with utility installations, repair and maintenance of infrastructure and emergency response. The Project will also provide telecommunications services to several public safety agencies and first responders. Joint Panel pf. at 12.

2. The Project facilities are proposed to be located in the Mount Holly portion of the summit of Okemo Mountain near an existing ski lift and two small buildings. There is also a 75-foot-high fire tower located at a different location on the summit. Exh. JP-3-6.B.1 § I.

2. The petition already includes a tower and foundation design (Exh. JP-3-6.B.7) and information regarding the tower's structural capacity. Because the petition already includes the information requested by the Department, it is unnecessary to require this information as a condition of the CPG, and we decline to do so.

3. The Project includes the installation of a 40-foot-tall lattice type tower, within an approximately 12-foot by 18-foot fenced compound, 9 antennas, 2 microwave dishes and a lightening arrestor to be mounted on the tower, a 12-foot by 36-foot equipment shelter approximately 10 feet in height, and an 11-foot by 11-foot concrete pad to support a 500-gallon propane tank. In addition, the Project involves landscaping around the compound and the relocation of an existing building and propane tank. Exhs. JP-3-6.B.1 § II, JP-3-6.B.2.

4. The Project will result in approximately 1950 square feet of earth disturbance. Exh. JP-3-6.B.1 § II.

5. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas, or floodways. This finding is supported by findings 6 and 7, below.

6. The tower will only be marginally visible from the Town of Ludlow, and will be barely visible in Mount Holly beyond the immediate Project vicinity. Because the summit is already developed with a ski lift and fire tower, the Project will not seem out of context with its surroundings. Therefore, the installation of the facilities will not have an undue adverse effect on aesthetics when viewed in the overall context of the site. Exh. JP-3-6.B.1 § IV.

7. The proposed installation of the facilities will not have undue adverse impacts to rare or irreplaceable natural areas. Based upon a recommendation from the Vermont Department of Fish and Wildlife, the Petitioners have agreed to a condition in the CPG prohibiting any clearing related to the Project between May 15th and August 1st in order to avoid potential impacts to nesting birds in the area. Exh. JP-3-6.B.1 § IV.

8. There are no historic sites located near the proposed Project site. Exh. JP-3-6.B.1 § IV.

9. The Project is not located in or near a floodway. Exh. JP-3-6.B.1 § IV.

IV. DISCUSSION and CONCLUSION

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that

the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(b)(3)(A), the Procedures Order defines a project of "limited size and scope" as:

a new telecommunications facility, including ancillary improvements, that does not exceed 140 feet in height; or an addition, modification, replacement, or removal of equipment at an existing telecommunications facility or support structure, and ancillary improvements, that would result in a total facility height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet. In order to qualify as a project of limited size and scope, construction of the project shall not result in earth disturbance of more than 10,000 square feet of earth, excluding temporary earth disturbance associated with construction activities.

Further, pursuant to Section IX of the Procedures Order, regarding projects of "limited size and scope:"

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing

The proposed Project involves a new tower less than 140 feet high and will result in less than 10,000 square feet of earth disturbance. Therefore, the Project qualifies as a facility of "limited size and scope" as defined in the Board's Procedures Order governing the installation of wireless telecommunications facilities. The Procedures Order provides that the Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(1)(D) (floodways), and § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by Vermont Transco LLC and Vermont Electric Power Company, Inc., Windsor County Sheriff's Department, Cavendish Volunteer Fire Department, Inc., Plymouth Volunteer Fire Department, Inc., Ludlow Fire Department Benevolent Association, Inc., Ludlow Ambulance Department, Proctorsville Fire Department - Cavendish Fire District No. 1, and Vermont Railway, Inc., in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 20th day September, 2011.

<u>s/James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/David C. Coen</u>)	
)	
)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 20, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.